

HOUSE BILL No. 1238

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-18-2-163; IC 16-34-2-1.1; IC 16-37-2; IC 16-38-4-9; IC 25-1-5-3; IC 25-22.5; IC 25-23-1; IC 25-23.3; IC 34-6-2; IC 34-18-2; IC 34-30-2.

Synopsis: Licensure of midwives. Establishes the midwifery board (board). Sets qualifications for a certified professional midwife (CPM). Requires the board to: (1) develop peer review procedures; (2) require the purchase of liability insurance as a condition for licensure if the board determines liability insurance is sufficiently available; and (3) adopt rules limiting the scope of practice of CPMs to nonhospital settings. Makes it a Class B misdemeanor to practice midwifery without a license. Adds culpability standards to the crimes of practicing medicine or osteopathic medicine and acting as a physician's assistant without a license. Allows the board to specify circumstances under which a CPM may administer certain prescription drugs. Provides that a health care provider may not be held liable for the acts or omissions of a CPM or a licensed physician who has a collaborative agreement with the CPM. Allows certain individuals to act under the supervision of a CPM. Requires the office of Medicaid policy and planning to seek a waiver from the United States Department of Health and Human Services to allow Medicaid reimbursement for CPMs. Repeals the definition of "midwife" in the medical malpractice law.

Effective: July 1, 2007.

Welch, Brown C

January 11, 2007, read first time and referred to Committee on Public Health.

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Introduced

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

HOUSE BILL No. 1238

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 16-18-2-163, AS AMENDED BY P.L.95-2005,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2007]: Sec. 163. (a) "Health care provider", for purposes of
4 IC 16-21 and IC 16-41, means any of the following:

5 (1) An individual, a partnership, a corporation, a professional
6 corporation, a facility, or an institution licensed or legally
7 authorized by this state to provide health care or professional
8 services as a licensed physician, a psychiatric hospital, a hospital,
9 a health facility, an emergency ambulance service (IC 16-31-3),
10 a dentist, a registered or licensed practical nurse, a **certified**
11 **nurse** midwife, a **certified professional midwife**, an optometrist,
12 a pharmacist, a podiatrist, a chiropractor, a physical therapist, a
13 respiratory care practitioner, an occupational therapist, a
14 psychologist, a paramedic, an emergency medical technician, an
15 emergency medical technician-basic advanced, an emergency
16 medical technician-intermediate, or a person who is an officer,
17 employee, or agent of the individual, partnership, corporation,



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professional corporation, facility, or institution acting in the course and scope of the person's employment.

(2) A college, university, or junior college that provides health care to a student, a faculty member, or an employee, and the governing board or a person who is an officer, employee, or agent of the college, university, or junior college acting in the course and scope of the person's employment.

(3) A blood bank, community mental health center, community mental retardation center, community health center, or migrant health center.

(4) A home health agency (as defined in IC 16-27-1-2).

(5) A health maintenance organization (as defined in IC 27-13-1-19).

(6) A health care organization whose members, shareholders, or partners are health care providers under subdivision (1).

(7) A corporation, partnership, or professional corporation not otherwise qualified under this subsection that:

(A) provides health care as one (1) of the corporation's, partnership's, or professional corporation's functions;

(B) is organized or registered under state law; and

(C) is determined to be eligible for coverage as a health care provider under IC 34-18 for the corporation's, partnership's, or professional corporation's health care function.

Coverage for a health care provider qualified under this subdivision is limited to the health care provider's health care functions and does not extend to other causes of action.

(b) "Health care provider", for purposes of IC 16-35, has the meaning set forth in subsection (a). However, for purposes of IC 16-35, the term also includes a health facility (as defined in section 167 of this chapter).

(c) "Health care provider", for purposes of IC 16-36-5, means an individual licensed or authorized by this state to provide health care or professional services as:

(1) a licensed physician;

(2) a registered nurse;

(3) a licensed practical nurse;

(4) an advanced practice nurse;

(5) ~~a licensed~~ **certified** nurse midwife **or a certified professional midwife;**

(6) a paramedic;

(7) an emergency medical technician;

(8) an emergency medical technician-basic advanced;

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(9) an emergency medical technician-intermediate; or

(10) a first responder, as defined under IC 16-18-2-131.

The term includes an individual who is an employee or agent of a health care provider acting in the course and scope of the individual's employment.

(d) "Health care provider", for purposes of IC 16-40-4, means any of the following:

(1) An individual, a partnership, a corporation, a professional corporation, a facility, or an institution licensed or authorized by the state to provide health care or professional services as a licensed physician, a psychiatric hospital, a hospital, a health facility, an emergency ambulance service (IC 16-31-3), an ambulatory outpatient surgical center, a dentist, an optometrist, a pharmacist, a podiatrist, a chiropractor, a psychologist, or a person who is an officer, employee, or agent of the individual, partnership, corporation, professional corporation, facility, or institution acting in the course and scope of the person's employment.

(2) A blood bank, laboratory, community mental health center, community mental retardation center, community health center, or migrant health center.

(3) A home health agency (as defined in IC 16-27-1-2).

(4) A health maintenance organization (as defined in IC 27-13-1-19).

(5) A health care organization whose members, shareholders, or partners are health care providers under subdivision (1).

(6) A corporation, partnership, or professional corporation not otherwise specified in this subsection that:

(A) provides health care as one (1) of the corporation's, partnership's, or professional corporation's functions;

(B) is organized or registered under state law; and

(C) is determined to be eligible for coverage as a health care provider under IC 34-18 for the corporation's, partnership's, or professional corporation's health care function.

(7) A person that is designated to maintain the records of a person described in subdivisions (1) through (6).

SECTION 2. IC 16-34-2-1.1, AS AMENDED BY P.L.36-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1.1. (a) An abortion shall not be performed except with the voluntary and informed consent of the pregnant woman upon whom the abortion is to be performed. Except in the case of a medical emergency, consent to an abortion is voluntary and informed only if the

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following conditions are met:

(1) At least eighteen (18) hours before the abortion and in the presence of the pregnant woman, the physician who is to perform the abortion, the referring physician or a physician assistant (as defined in IC 25-27.5-2-10), an advanced practice nurse (as defined in IC 25-23-1-1(b)), **a certified professional midwife (as defined in IC 25-23.3-1-4)**, or a **certified nurse** midwife (as defined in ~~IC 34-18-2-19~~ **IC 34-18-2-6.5**) to whom the responsibility has been delegated by the physician who is to perform the abortion or the referring physician has orally informed the pregnant woman of the following:

(A) The name of the physician performing the abortion.

(B) The nature of the proposed procedure or treatment.

(C) The risks of and alternatives to the procedure or treatment.

(D) The probable gestational age of the fetus, including an offer to provide:

(i) a picture or drawing of a fetus;

(ii) the dimensions of a fetus; and

(iii) relevant information on the potential survival of an unborn fetus;

at this stage of development.

(E) The medical risks associated with carrying the fetus to term.

(F) The availability of fetal ultrasound imaging and auscultation of fetal heart tone services to enable the pregnant woman to view the image and hear the heartbeat of the fetus and how to obtain access to these services.

(2) At least eighteen (18) hours before the abortion, the pregnant woman will be orally informed of the following:

(A) That medical assistance benefits may be available for prenatal care, childbirth, and neonatal care from the county office of family and children.

(B) That the father of the unborn fetus is legally required to assist in the support of the child. In the case of rape, the information required under this clause may be omitted.

(C) That adoption alternatives are available and that adoptive parents may legally pay the costs of prenatal care, childbirth, and neonatal care.

(3) The pregnant woman certifies in writing, before the abortion is performed, that the information required by subdivisions (1) and (2) has been provided.

(b) Before an abortion is performed, the pregnant woman may, upon

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the pregnant woman's request, view the fetal ultrasound imaging and hear the auscultation of the fetal heart tone if the fetal heart tone is audible.

SECTION 3. IC 16-37-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. As used in this chapter, "person in attendance at birth" means one (1) of the following:

(1) A licensed attending physician.

(2) ~~An attending~~ **A certified professional** midwife or **a certified** nurse midwife.

(3) Another individual who:

(A) holds a license of the type designated by the governing board of a hospital, after consultation with the hospital's medical staff, to attend births at the hospital; and

(B) is in attendance at the birth.

SECTION 4. IC 16-37-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. A local health officer may accept a certificate of birth presented for filing not more than four (4) years after the birth occurred if the attending physician, **certified nurse midwife, certified professional** midwife, or other person desiring to file the certificate states the reason for the delay in writing. This statement shall be made a part of the certificate of birth.

SECTION 5. IC 16-38-4-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) **Certified** nurse midwives, **certified professional midwives**, and individuals and entities described in section 7(a)(2) of this chapter shall report each confirmed case of a birth problem that is recognized at the time of birth to the registry not later than sixty (60) days after the birth. An individual or entity described in section 7(a)(2) of this chapter who recognizes a birth problem in a child after birth but before the child is five (5) years of age shall report the birth problem to the registry not later than sixty (60) days after recognizing the birth problem. Information may be provided to amend or clarify an earlier reported case.

(b) A person required to report information to the registry under this section may use, when completing reports required by this chapter, information submitted to any other public or private registry or required to be filed with federal, state, or local agencies. However, the state department may require additional, definitive information.

(c) Exchange of information between state department registries is authorized. The state department may use information from another registry administered by the state department. Information used from other registries remains subject to the confidentiality restrictions on the

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other registries.

SECTION 6. IC 25-1-5-3, AS AMENDED BY P.L.206-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) There is established the Indiana professional licensing agency. The agency shall perform all administrative functions, duties, and responsibilities assigned by law or rule to the executive director, secretary, or other statutory administrator of the following:

- (1) Board of chiropractic examiners (IC 25-10-1).
- (2) State board of dentistry (IC 25-14-1).
- (3) Indiana state board of health facility administrators (IC 25-19-1).
- (4) Medical licensing board of Indiana (IC 25-22.5-2).
- (5) Indiana state board of nursing (IC 25-23-1).
- (6) Indiana optometry board (IC 25-24).
- (7) Indiana board of pharmacy (IC 25-26).
- (8) Board of podiatric medicine (IC 25-29-2-1).
- (9) Board of environmental health specialists (IC 25-32).
- (10) Speech-language pathology and audiology board (IC 25-35.6-2).
- (11) State psychology board (IC 25-33).
- (12) Indiana board of veterinary medical examiners (IC 15-5-1.1).
- (13) Controlled substances advisory committee (IC 35-48-2-1).
- (14) Committee of hearing aid dealer examiners (IC 25-20).
- (15) Indiana physical therapy committee (IC 25-27).
- (16) Respiratory care committee (IC 25-34.5).
- (17) Occupational therapy committee (IC 25-23.5).
- (18) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).
- (19) Physician assistant committee (IC 25-27.5).
- (20) Indiana athletic trainers board (IC 25-5.1-2-1).
- (21) Indiana dietitians certification board (IC 25-14.5-2-1).
- (22) Indiana hypnotist committee (IC 25-20.5-1-7).

(23) Midwifery board (IC 25-23.3-2).

(b) Nothing in this chapter may be construed to give the agency policy making authority, which authority remains with each board.

SECTION 7. IC 25-22.5-1-2, AS AMENDED BY P.L.141-2006, SECTION 106, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) This article, as it relates to the unlawful or unauthorized practice of medicine or osteopathic medicine, does not apply to any of the following:

- (1) A student in training in a medical school approved by the

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board, or while performing duties as an intern or a resident in a hospital under the supervision of the hospital's staff or in a program approved by the medical school.

(2) A person who renders service in case of emergency where no fee or other consideration is contemplated, charged, or received.

(3) A paramedic (as defined in IC 16-18-2-266), an emergency medical technician-basic advanced (as defined in IC 16-18-2-112.5), an emergency medical technician-intermediate (as defined in IC 16-18-2-112.7), an emergency medical technician (as defined in IC 16-18-2-112), or a person with equivalent certification from another state who renders advanced life support (as defined in IC 16-18-2-7) or basic life support (as defined in IC 16-18-2-33.5):

(A) during a disaster emergency declared by the governor under IC 10-14-3-12 in response to an act that the governor in good faith believes to be an act of terrorism (as defined in IC 35-41-1-26.5); and

(B) in accordance with the rules adopted by the Indiana emergency medical services commission or the disaster emergency declaration of the governor.

(4) Commissioned medical officers or medical service officers of the armed forces of the United States, the United States Public Health Service, and medical officers of the United States Department of Veterans Affairs in the discharge of their official duties in Indiana.

(5) An individual who is not a licensee who resides in another state or country and is authorized to practice medicine or osteopathic medicine there, who is called in for consultation by an individual licensed to practice medicine or osteopathic medicine in Indiana.

(6) A person administering a domestic or family remedy to a member of the person's family.

(7) A member of a church practicing the religious tenets of the church if the member does not make a medical diagnosis, prescribe or administer drugs or medicines, perform surgical or physical operations, or assume the title of or profess to be a physician.

(8) A school corporation and a school employee who acts under IC 34-30-14 (or IC 34-4-16.5-3.5 before its repeal).

(9) A chiropractor practicing the chiropractor's profession under IC 25-10 or to an employee of a chiropractor acting under the direction and supervision of the chiropractor under IC 25-10-1-13.

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- 1 (10) A dental hygienist practicing the dental hygienist's profession
- 2 under IC 25-13.
- 3 (11) A dentist practicing the dentist's profession under IC 25-14.
- 4 (12) A hearing aid dealer practicing the hearing aid dealer's
- 5 profession under IC 25-20.
- 6 (13) A nurse practicing the nurse's profession under IC 25-23.
- 7 However, a registered nurse may administer anesthesia if the
- 8 registered nurse acts under the direction of and in the immediate
- 9 presence of a physician and holds a certificate of completion of a
- 10 course in anesthesia approved by the American Association of
- 11 Nurse Anesthetists or a course approved by the board.
- 12 (14) An optometrist practicing the optometrist's profession under
- 13 IC 25-24.
- 14 (15) A pharmacist practicing the pharmacist's profession under
- 15 IC 25-26.
- 16 (16) A physical therapist practicing the physical therapist's
- 17 profession under IC 25-27.
- 18 (17) A podiatrist practicing the podiatrist's profession under
- 19 IC 25-29.
- 20 (18) A psychologist practicing the psychologist's profession under
- 21 IC 25-33.
- 22 (19) A speech-language pathologist or audiologist practicing the
- 23 pathologist's or audiologist's profession under IC 25-35.6.
- 24 (20) An employee of a physician or group of physicians who
- 25 performs an act, a duty, or a function that is customarily within
- 26 the specific area of practice of the employing physician or group
- 27 of physicians, if the act, duty, or function is performed under the
- 28 direction and supervision of the employing physician or a
- 29 physician of the employing group within whose area of practice
- 30 the act, duty, or function falls. An employee may not make a
- 31 diagnosis or prescribe a treatment and must report the results of
- 32 an examination of a patient conducted by the employee to the
- 33 employing physician or the physician of the employing group
- 34 under whose supervision the employee is working. An employee
- 35 may not administer medication without the specific order of the
- 36 employing physician or a physician of the employing group.
- 37 Unless an employee is licensed or registered to independently
- 38 practice in a profession described in subdivisions (9) through
- 39 (18), nothing in this subsection grants the employee independent
- 40 practitioner status or the authority to perform patient services in
- 41 an independent practice in a profession.
- 42 (21) A hospital licensed under IC 16-21 or IC 12-25.

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(22) A health care organization whose members, shareholders, or partners are individuals, partnerships, corporations, facilities, or institutions licensed or legally authorized by this state to provide health care or professional services as:

(A) a physician;

(B) a psychiatric hospital;

(C) a hospital;

(D) a health maintenance organization or limited service health maintenance organization;

(E) a health facility;

(F) a dentist;

(G) a registered or licensed practical nurse;

(H) a **certified nurse midwife or a certified professional midwife;**

(I) an optometrist;

(J) a podiatrist;

(K) a chiropractor;

(L) a physical therapist; or

(M) a psychologist.

(23) A physician assistant practicing the physician assistant's profession under IC 25-27.5.

(24) A physician providing medical treatment under IC 25-22.5-1-2.1.

(25) An attendant who provides attendant care services (as defined in IC 16-18-2-28.5).

(26) A personal services attendant providing authorized attendant care services under IC 12-10-17.1.

(b) A person described in subsection (a)(9) through (a)(18) is not excluded from the application of this article if:

(1) the person performs an act that an Indiana statute does not authorize the person to perform; and

(2) the act qualifies in whole or in part as the practice of medicine or osteopathic medicine.

(c) An employment or other contractual relationship between an entity described in subsection (a)(21) through (a)(22) and a licensed physician does not constitute the unlawful practice of medicine under this article if the entity does not direct or control independent medical acts, decisions, or judgment of the licensed physician. However, if the direction or control is done by the entity under IC 34-30-15 (or IC 34-4-12.6 before its repeal), the entity is excluded from the application of this article as it relates to the unlawful practice of medicine or osteopathic medicine.

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(d) This subsection does not apply to a prescription or drug order for a legend drug that is filled or refilled in a pharmacy owned or operated by a hospital licensed under IC 16-21. A physician licensed in Indiana who permits or authorizes a person to fill or refill a prescription or drug order for a legend drug except as authorized in IC 16-42-19-11 through IC 16-42-19-19 is subject to disciplinary action under IC 25-1-9. A person who violates this subsection commits the unlawful practice of medicine under this chapter.

(e) A person described in subsection (a)(8) shall not be authorized to dispense contraceptives or birth control devices.

SECTION 8. IC 25-22.5-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) A person who **knowingly or intentionally** violates this article by unlawfully practicing medicine or osteopathic medicine commits a Class C felony.

~~(b) A person who practices midwifery without the license required under this article commits a Class D felony.~~

~~(c)~~ (b) A person who **knowingly or intentionally** acts as a physician's assistant without registering with the board as required under this article commits a Class D felony.

SECTION 9. IC 25-23-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. As used in this chapter:

(a) "Board" means the Indiana state board of nursing.

(b) "Advanced practice nurse" means:

- (1) a nurse practitioner;
- (2) a **certified** nurse midwife; or
- (3) a clinical nurse specialist;

who is a registered nurse qualified to practice nursing in a specialty role based upon the additional knowledge and skill gained through a formal organized program of study and clinical experience, or the equivalent as determined by the board, which does not limit but extends or expands the function of the nurse which may be initiated by the client or provider in settings that shall include hospital outpatient clinics and health maintenance organizations.

(c) "Human response" means those signs, symptoms, behaviors, and processes that denote the individual's interaction with the environment.

SECTION 10. IC 25-23-1-13.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13.1. (a) An applicant who desires to practice **certified nurse** midwifery shall present to the board the applicant's license as a registered nurse and a diploma earned by the applicant from a school of midwifery approved or licensed by the board or licensing agency for midwives that is located in any state.

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(b) The applicant shall submit to an examination in **certified nurse** midwifery prescribed or administered by the board. If the application and qualifications are approved by the board, the applicant is entitled to receive a limited license that allows the applicant to practice midwifery **as a certified nurse midwife**.

(c) The board shall adopt rules under ~~IC 25-23-1-7~~ **section 7 of this chapter:**

(1) defining the scope of practice ~~for midwifery~~ **of a certified nurse midwife**; and

(2) for implementing this section.

SECTION 11. IC 25-23.3 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

ARTICLE 23.3. CERTIFIED PROFESSIONAL MIDWIVES

Chapter 1. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Antepartum period" means the period that begins when a woman becomes pregnant and ends when the birthing period begins.

Sec. 3. "Board" refers to the midwifery board established by IC 25-23.3-2-1.

Sec. 4. (a) "Certified professional midwife" or "CPM" means an individual who has completed and passed the credentialing process as administered by the North American Registry of Midwives or a successor organization.

(b) The term does not include any of the following:

(1) An individual engaged in the practice of medicine under IC 25-22.5.

(2) A certified nurse midwife engaged in the practice of midwifery only under IC 25-23.

(3) An individual providing emergency medical services.

Sec. 5. As used in this chapter, "health care professional" means any of the following:

(1) A physician licensed under IC 25-22.5.

(2) A dentist licensed under IC 25-14.

(3) A chiropractor licensed under IC 25-10.

(4) A podiatrist licensed under IC 25-29.

(5) An optometrist licensed under IC 25-24.

(6) A nurse licensed under IC 25-23-1.

(7) A physical therapist licensed under IC 25-27 or a physical therapist's assistant certified under IC 25-27.

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(8) A speech language pathologist or an audiologist licensed under IC 25-35.6-3.

(9) A speech language pathology aide or an audiology assistant (as defined in IC 25-35.6-1-2).

(10) An:

(A) occupational therapist; or

(B) occupational therapist assistant; certified under IC 25-23.5.

(11) A social worker licensed under IC 25-23.6 or a social work assistant.

(12) A pharmacist licensed under IC 25-26-13.

Sec. 6. "Intrapartum period" means the period that begins when a woman starts labor and ends when the woman gives birth.

Sec. 7. "Midwifery" means the acts of a person when the person, for compensation, advises, attends, or assists a woman during pregnancy, labor, natural childbirth, or the postpartum period.

Sec. 8. "Postpartum period" means the six (6) week period after a birth.

Chapter 2. Midwifery Board

Sec. 1. The midwifery board is established.

Sec. 2. The board consists of seven (7) members appointed by the governor as follows:

(1) Four (4) members who are certified professional midwives.

(2) One (1) member who:

(A) has an unlimited license to practice medicine in Indiana; and

(B) practices as a family practitioner, a pediatrician, or an obstetrician.

(3) One (1) member who is an attorney licensed to practice law in Indiana.

(4) One (1) certified nurse midwife with experience in the practice of home births.

Sec. 3. (a) The term of each board member is four (4) years.

(b) A board member may be reappointed for not more than three (3) consecutive terms.

(c) A board member serves until the board member's successor is appointed. A vacancy occurring in the membership of the board for any cause shall be filled by appointment by the governor for the unexpired term.

(d) The board members shall annually select a chairperson and a vice chairperson from among the board's members.

Sec. 4. (a) The board shall meet at least one (1) time each year

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1 at the call of the chairperson.

2 (b) Four (4) members of the board constitute a quorum.

3 (c) The affirmative vote of four (4) members of the board is
4 required for the board to take action.

5 Sec. 5. The health professions bureau shall provide staff support
6 for the board.

7 Sec. 6. The board shall do the following:

8 (1) Establish as a requirement for licensure as a certified
9 professional midwife the certified professional midwife (CPM)
10 credentials developed by the North American Registry of
11 Midwives or a successor organization.

12 (2) Establish fees for the licensure of certified professional
13 midwives.

14 (3) Establish annual continuing education requirements for
15 license renewal.

16 (4) Develop a peer review procedure, using as guidelines the
17 peer review procedures established by:

18 (A) the Indiana Midwives Association or a successor
19 organization; and

20 (B) the Midwives Alliance of North America or a successor
21 organization.

22 (5) Prescribe informed consent forms and other relevant
23 forms.

24 (6) Research the availability of liability insurance for certified
25 professional midwives and, if the board determines that
26 liability insurance is sufficiently available, require the
27 purchase of liability insurance as a condition for licensure.

28 (7) Establish continuing education requirements, including
29 study in pharmacology.

30 (8) Adopt rules under IC 4-22-2 that define the scope of
31 practice for certified professional midwives. Rules adopted
32 under this subdivision must limit the practice of certified
33 professional midwives to nonhospital settings.

34 Sec. 7. The board shall adopt rules under IC 4-22-2 to
35 administer this article.

36 Chapter 3. Certified Professional Midwifery Licensing

37 Sec. 1. (a) This section does not apply to an individual who has
38 a limited license under IC 25-23-1-13.1 to practice midwifery as a
39 certified nurse midwife and is practicing within the scope of that
40 license.

41 (b) An individual may not practice midwifery unless:

42 (1) the individual is a licensed or certified health care

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professional (including a certified nurse midwife) acting within the scope of the person's license or certification; or
 (2) the individual has a certified professional midwife license under this article.

(c) To become licensed as a certified professional midwife, an applicant must satisfy the following requirements:

- (1) Be at least twenty-one (21) years of age.
- (2) Satisfactorily complete educational and practical requirements of the CPM credentialing process in accordance with the standards of the North American Registry of Midwives or a successor organization.
- (3) Acquire and document practical experience as outlined in the CPM credentialing process in accordance with the standards of the North American Registry of Midwives or a successor organization.
- (4) Obtain certification by the accredited association in adult cardiopulmonary resuscitation.
- (5) Complete the program sponsored by the American Academy of Pediatrics in neonatal resuscitation, excluding endotracheal intubation and the administration of drugs.
- (6) Provide proof to the board that the applicant has obtained the CPM credential as administered by the North American Registry of Midwives or a successor organization.
- (7) Present additional documentation or certifications required by the board.

Sec. 2. The board may require an oral interview with the applicant to assess the applicant's fitness to practice midwifery.

Sec. 3. The board shall grant a license to practice certified professional midwifery to an applicant who satisfies the requirements of sections 1 and 2 of this chapter.

Sec. 4. (a) A license issued under this chapter expires three (3) years after the date of issuance. Failure to renew a license on or before the expiration date makes the license invalid without any action by the board.

(b) The procedures and fees for renewal are set by the board.

Sec. 5. The board:

- (1) shall adopt rules under IC 4-22-2 to set the fees for issuance of a license under this article; and
- (2) may adopt rules under IC 4-22-2 to set other fees the board considers necessary to administer this article.

(c) To be eligible for the renewal of a license issued under this chapter, an individual must meet continuing education

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requirements set by the board.

Sec. 6. Only an individual who is a certified professional midwife under this article may use the title "certified professional midwife".

Sec. 7. The board may deny, suspend, or revoke a license issued under this article to an individual who does any of the following:

(1) Uses alcohol or drugs to a degree that impairs the individual's practice of midwifery.

(2) Engages in unprofessional conduct as defined by the board's rules.

(3) Commits an act or makes an omission constituting gross negligence arising from the practice of midwifery.

(4) Obtains a certified professional midwife license through fraud.

(5) Violates this article or a rule adopted under this article by the board.

Sec. 8. The board shall provide notice and a hearing under IC 4-21.5 to an individual licensed under this article before the board may deny, suspend, or revoke the individual's license under section 7 of this chapter.

Sec. 9. The board may impose a civil penalty of not more than five hundred dollars (\$500) on an individual licensed under this article who commits an act or makes an omission described in section 7 of this chapter.

Sec. 10. The board may issue a license to an individual who is licensed as a midwife in another state with requirements that the board determines are at least equal to the licensing requirements of this article.

Sec. 11. (a) This section does not apply to an individual who has a limited license under IC 25-23-1-13.1 to practice midwifery as a certified nurse midwife.

(b) An individual who knowingly or intentionally practices midwifery without a license required under this article commits a Class B misdemeanor.

Chapter 4. Informed Consent for the Practice of Certified Professional Midwifery

Sec. 1. All of the following must occur before a certified professional midwife may accept a client for midwifery care:

(1) The certified professional midwife must provide the potential client with an informed disclosure of practice form prescribed by the board under section 3 of this chapter.

(2) The potential client must sign and date the form.

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(3) The certified professional midwife must sign and date the form.

(4) If the potential client refuses a procedure or treatment required by law, the potential client must so indicate on a separate procedure or treatment form.

Sec. 2. A certified professional midwife may not perform on a client a specific procedure or treatment that is not described on the informed disclosure of practice form described in section 1 of this chapter until both of the following occur:

(1) The specific procedure or treatment is disclosed to the client in writing on a form that is separate from the informed disclosure of practice form.

(2) The client agrees to the procedure or treatment by signing the procedure or treatment form.

Sec. 3. (a) The board shall prescribe the written form for the informed disclosure of practice.

(b) The informed disclosure of practice form must be in writing and must contain the following information:

(1) A description of the certified professional midwife's education and training in midwifery, including completion of continuing education courses and participation in the peer review process.

(2) The certified professional midwife's experience level in the field of midwifery.

(3) The certified professional midwife's philosophy of practice.

(4) Antepartum, intrapartum, and postpartum conditions requiring consultation, transfer of care, and transport to a hospital.

(5) A medical backup plan.

(6) The services to be provided to the client by the certified professional midwife.

(7) The certified professional midwife's current licensure status and pertinent legal ramifications.

(8) A detailed explanation of treatments and procedures.

(9) A detailed description of the risks and expected benefits of midwifery care.

(10) The availability of a grievance process in a case in which a client is dissatisfied with the performance of the certified professional midwife.

(11) A statement that under IC 25-23.3-6 a health care provider (as defined in IC 34-18-2-14 or IC 27-12-2-14 before

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its repeal) may not be held jointly or severally liable for the acts or omissions of a:

- (A) certified professional midwife; or
- (B) licensed physician who has entered into a collaborative agreement under IC 25-23.3-5 with a certified professional midwife, for the acts or omissions of the licensed physician while the physician assists or collaborates with the certified professional midwife to perform midwifery.

Sec. 4. A certified professional midwife may not disclose information obtained from a client during a professional consultation except under the following conditions:

- (1) The client or the client's personal representative or guardian provides written consent.
- (2) The information concerns the commission of a crime or the threat of imminent danger.
- (3) The client:
 - (A) is a minor and is the victim of a crime;
 - (B) brings a cause of action against the midwife;
 - (C) waives the confidentiality privilege; or
 - (D) is seeking emergency care.
- (4) Any other condition allowed by law.

Sec. 5. (a) A certified professional midwife shall provide an annual report to the board regarding each birth that the certified professional midwife assists. A report must summarize the following on a form prescribed by the board:

- (1) Vital statistics.
- (2) Scope of care.
- (3) Transport information.
- (4) Physician referral.

(b) A certified professional midwife may not reveal the identity of the clients referred to in a report under subsection (a).

Sec. 6. (a) Except as provided in subsection (b), a certified professional midwife may not prescribe, dispense, or administer prescription drugs.

(b) A certified professional midwife may administer:

- (1) vitamin K, either orally or through intramuscular injection;
- (2) postpartum antihemorrhagic drugs in emergency situations;
- (3) local anesthetics;
- (4) oxygen;
- (5) Rhogam;

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1 (6) prophylactic eye agents; and

2 (7) prophylactic antibiotics for Group B Strep (also known as
3 Beta Strep).

4 In defining the scope of practice for certified professional midwives
5 under IC 25-23.3-2-6(8), the board may adopt rules specifying the
6 circumstances under which a certified professional midwife may
7 administer the substances listed in this subsection.

8 Chapter 5. Collaborative Plans of Treatment

9 Sec. 1. A certified professional midwife may provide services to
10 an at-risk client (as defined in standards established by the board)
11 under this article during the client's antepartum, intrapartum, and
12 postpartum periods if the certified professional midwife has
13 entered into a collaborative plan of treatment with a physician
14 licensed under IC 25-22.5.

15 Sec. 2. A collaborative plan of treatment under section 1 of this
16 chapter must include the following:

17 (1) Provisions stating the circumstances that would require
18 consultation or referral.

19 (2) Provisions stating the circumstances that would require
20 transfer of responsibility for the primary care of the client.

21 (3) Provisions stating the services to be provided by the
22 certified professional midwife and the licensed physician.

23 Chapter 6. Liability of Other Health Care Providers

24 Sec. 1. A health care provider (as defined in IC 34-18-2-14) may
25 not be held jointly or severally liable for the acts or omissions of a
26 certified professional midwife.

27 Sec. 2. (a) This section applies to:

28 (1) an employee of a certified professional midwife; or

29 (2) a student, an intern, a trainee, or an apprentice who is:

30 (A) pursuing a course of study to gain licensure under this
31 article; or

32 (B) accumulating the experience required for licensure
33 under this article;

34 under the supervision of a certified professional midwife.

35 (b) A person described in subsection (a) may perform an act, a
36 duty, or a function of midwifery that is customarily within the
37 specific area of practice of the employing certified professional
38 midwife if the act, duty, or function is performed under the
39 direction and supervision of the employing certified professional
40 midwife.

41 (c) A person described in subsection (a) may not be held jointly
42 or severally liable for the acts or omissions of a certified

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professional midwife.

Sec. 3. Except for a certified professional midwife who performs midwifery with a physician under a collaborative agreement, a health care provider (as defined in IC 34-18-2-14) may not be held jointly or severally liable for the acts or omissions of a licensed physician who has entered into a collaborative agreement with a certified professional midwife for the acts or omissions of the licensed physician while the physician assists or collaborates with the certified professional midwife to perform midwifery.

Chapter 7. Right to Certified Professional Midwifery Services

Sec. 1. Except as otherwise provided by law, an individual is entitled to:

(1) give birth in the presence of; and

(2) receive assistance during the birth process from;

a certified professional midwife.

SECTION 12. IC 34-6-2-19.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 19.3. "Certified nurse midwife", for purposes of IC 34-18, has the meaning set forth in IC 34-18-2-6.5.**

SECTION 13. IC 34-18-2-6.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 6.5. "Certified nurse midwife" means a registered nurse who holds a limited license to practice midwifery under IC 25-23-1-13.1.**

SECTION 14. IC 34-18-2-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 14. "Health care provider" means any of the following:**

(1) An individual, a partnership, a limited liability company, a corporation, a professional corporation, a facility, or an institution licensed or legally authorized by this state to provide health care or professional services as a physician, a psychiatric hospital, a hospital, a health facility, an emergency ambulance service (IC 16-18-2-107), a dentist, a registered or licensed practical nurse, a physician assistant, a certified nurse midwife, a certified professional midwife, an optometrist, a podiatrist, a chiropractor, a physical therapist, a respiratory care practitioner, an occupational therapist, a psychologist, a paramedic, an emergency medical technician-intermediate, an emergency medical technician-basic advanced, or an emergency medical technician, or a person who is an officer, employee, or agent of the individual, partnership, corporation, professional corporation,

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1 facility, or institution acting in the course and scope of the
2 person's employment.

3 (2) A college, university, or junior college that provides health
4 care to a student, faculty member, or employee, and the governing
5 board or a person who is an officer, employee, or agent of the
6 college, university, or junior college acting in the course and
7 scope of the person's employment.

8 (3) A blood bank, community mental health center, community
9 mental retardation center, community health center, or migrant
10 health center.

11 (4) A home health agency (as defined in IC 16-27-1-2).

12 (5) A health maintenance organization (as defined in
13 IC 27-13-1-19).

14 (6) A health care organization whose members, shareholders, or
15 partners are health care providers under subdivision (1).

16 (7) A corporation, limited liability company, partnership, or
17 professional corporation not otherwise qualified under this section
18 that:

19 (A) as one (1) of its functions, provides health care;

20 (B) is organized or registered under state law; and

21 (C) is determined to be eligible for coverage as a health care
22 provider under this article for its health care function.

23 Coverage for a health care provider qualified under this
24 subdivision is limited to its health care functions and does not
25 extend to other causes of action.

26 SECTION 15. IC 34-30-2-99.5 IS ADDED TO THE INDIANA
27 CODE AS A NEW SECTION TO READ AS FOLLOWS
28 [EFFECTIVE JULY 1, 2007]: **Sec. 99.5. IC 25-23.3-6 (Concerning a**
29 **health care provider who renders care to a woman under the care**
30 **of a certified professional midwife).**

31 SECTION 16. IC 34-30-2-99.6 IS ADDED TO THE INDIANA
32 CODE AS A NEW SECTION TO READ AS FOLLOWS
33 [EFFECTIVE JULY 1, 2007]: **Sec. 99.6. IC 25-23.3-6 (Concerning an**
34 **employee, a student, an intern, a trainee, or an apprentice who**
35 **provides services under the direction or supervision of a certified**
36 **professional midwife).**

37 SECTION 17. THE FOLLOWING ARE REPEALED [EFFECTIVE
38 JULY 1, 2007]: IC 34-6-2-81; IC 34-18-2-19.

39 SECTION 18. [EFFECTIVE JULY 1, 2007] (a) **As used in this**
40 **SECTION, "board" refers to the midwifery board established by**
41 **IC 25-23.3-2-1, as added by this act.**

42 (b) **Notwithstanding IC 25-23.3-2-2, as added by this act, a**

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1 member of the board who is appointed under IC 25-23.3-2-2(1), as
 2 added by this act, is not required to be licensed under IC 25-23.3,
 3 as added by this act. However, a member appointed under
 4 IC 25-23.3-2-2(1), as added by this act, must be a certified
 5 professional midwife (as defined in IC 25-23.3-1-4, as added by this
 6 act).

7 (c) Notwithstanding IC 25-23.3-2-2, as added by this act, the
 8 governor shall appoint the initial members of the board before
 9 September 1, 2007, for terms expiring as follows:

10 (1) Two (2) members appointed under IC 25-23.3-2-2(1), as
 11 added by this act, and one (1) member appointed under
 12 IC 25-23.3-2-2(2), as added by this act, for a term expiring
 13 August 31, 2011.

14 (2) One (1) member appointed under IC 25-23.3-2-2(1), as
 15 added by this act, and one (1) member appointed under
 16 IC 25-23.3-2-2(3), as added by this act, for a term expiring
 17 August 31, 2010.

18 (3) One (1) member appointed under IC 25-23.3-2-2(1), as
 19 added by this act, and one (1) member appointed under
 20 IC 25-23.3-2-2(4), as added by this act, for a term expiring
 21 August 31, 2009.

22 (d) This SECTION expires September 1, 2011.

23 SECTION 19. [EFFECTIVE JULY 1, 2007] (a) As used in this
 24 SECTION, "office" refers to the office of Medicaid policy and
 25 planning established by IC 12-8-6-1.

26 (b) The office shall provide Medicaid reimbursement to a
 27 certified professional midwife who holds a license under
 28 IC 25-23.3, as added by this act, for services rendered by the
 29 certified professional midwife that the certified professional
 30 midwife is authorized to perform under the law.

31 (c) Before July 1, 2011, the office shall seek a waiver from the
 32 United States Department of Health and Human Services to allow
 33 Medicaid reimbursement for a certified professional midwife who
 34 holds a license under IC 25-23.3, as added by this act, for services
 35 rendered by the certified professional midwife that the certified
 36 professional midwife is authorized to perform under the law.

37 (d) Notwithstanding subsection (b), the office may not provide
 38 Medicaid reimbursement for services provided by a certified
 39 professional midwife, as described in subsection (c), until:

- 40 (1) the waiver described in subsection (c) is approved; or
- 41 (2) a waiver is not required under federal law.

42 (e) Not later than five (5) days after receiving notice of approval

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1 of the waiver requested under subsection (c), the office shall file an
 2 affidavit with the governor's office and the budget committee
 3 attesting to the fact that the waiver has been approved.

4 (f) The office shall implement subsection (b) not later than
 5 ninety (90) days after the governor's office and the budget
 6 committee receive the affidavit described in subsection (e).

7 (g) This SECTION expires July 1, 2012.

8 SECTION 20. [EFFECTIVE JULY 1, 2007] (a) Not later than July
 9 1, 2008, the midwifery board established by IC 25-23.3-2-1, as
 10 added by this act, with the assistance of the department of
 11 insurance, shall adopt rules under IC 4-22-2 to allow a certified
 12 professional midwife who holds a license under IC 25-23.3, as
 13 added by this act, to receive reimbursement from an insurance
 14 company or a third party payor for services rendered by the
 15 certified professional midwife that the certified professional
 16 midwife is authorized to perform under the law.

17 (b) This SECTION expires July 1, 2009.

18 SECTION 21. [EFFECTIVE JULY 1, 2007] A registered nurse
 19 who holds a limited license to practice midwifery under
 20 IC 25-23-1-13.1 (formerly referred to as a "midwife" before the
 21 repeal of IC 34-18-2-19 by this act) shall, beginning on July 1, 2007,
 22 be known as a "certified nurse midwife", as provided in
 23 IC 34-18-2-6.5, as added by this act.

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